

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN MATELIC,

Plaintiff,
vs.

Case No. 12-13523

BENNY MENDOZA,

HON. AVERN COHN

Defendant.
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ORDER DENYING MOTION TO LIFT STAY (Doc. 33)

This is a civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se and presently a state prisoner. Plaintiff is suing defendant Benny Mendoza, a police officer with the City of Detroit. Plaintiff claims that defendant violated his constitutional rights by the use of excessive force.

On July 18, 2013, the City of Detroit filed a voluntary petition for protection under Chapter 9 of the Bankruptcy Code. On July 25, 2013, Bankruptcy Judge Steven Rhodes entered an order confirming the automatic stay of all proceedings against the City imposed under section 922 of the Bankruptcy Code upon the filing of the petition. In re City of Detroit, Michigan, No. 13-53846 (Doc. 167) (Bankr. E.D. Mich. July 25, 2013). The stay applies to “judicial, administrative, or other action[s] or proceeding[s] against an officer or inhabitant of the City, including the issuance or employment of process, that seeks to enforce a claim against the City.” Id. at 3.

July 22, 2013, counsel for defendant filed a Notice, attaching a copy of the City of Detroit's bankruptcy petition. (Doc. 25).

On August 14, 2013, the Court entered an order staying all proceedings and administratively closing the case. (Doc. 28). In the stay order, the Court said that “any party may also seek reconsideration from this Court of the stay order.” Plaintiff then moved for reconsideration. (Doc. 29). The Court denied the motion. (Doc. 30).

Before the Court is plaintiff’s motion to lift the stay. (Doc. 33). Having reviewed the motion, the Court continues to believe that this case should be stayed. As explained in the stay order:

The present action had been commenced by the plaintiff against an officer of the City of Detroit seeking to recover damages, which the City of Detroit by law may be obliged to satisfy a judgment rendered against the officer. Based on the bankruptcy orders, further proceedings in this case must be stayed. While plaintiff’s claims arose prior to the filing of the bankruptcy petition, the bankruptcy court’s order contemplates that all cases be stayed, whether or not the claims arose prior to the bankruptcy filing. Moreover, because this case is still in the discovery phase, whether or not plaintiff will prevail on his claims is not known.

Accordingly, plaintiff’s motion to lift stay is DENIED.

SO ORDERED.

s/Avern Cohn
UNITED STATES DISTRICT JUDGE

Dated: December 20, 2013

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, December 20, 2013, by electronic and/or ordinary mail.

s/Carol Bethel for Sakne Chami
Case Manager, (313) 234-5160